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U.S. Senate

Date: Wednesday, May 22, 2019

Committee on Environment
and Public Works

Washington, D.C.

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EXAMINING LEGISLATION TO ADDRESS THE RISKS ASSOCIATED WITH PER-
AND POLYFLUOROALKYL SUBSTANCES (PFAS)

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The committee met, pursuant to notice, at 9:47 a.m. in room 406, Dirksen Senate Office Building, the Honorable John Barrasso [chairman of the committee] presiding.

Present: Senators Barrasso, Carper, Capito, Boozman, Braun, Ernst, Cardin, Markey, Whitehouse, Gillibrand, and Van Hollen.

STATEMENT OF THE HONORABLE JOHN BARRASSO, A UNITED STATES
SENATOR FROM THE STATE OF WYOMING

Senator Barrasso. Good morning. I call this hearing to order.

Today we are going to continue the committee's work examining the risks associated with per- and polyfluoroalkyl substances, or PFAS. PFAS are a large class of chemicals known for their resistance to oil and water. Since the 1940s, PFAS has been used in a broad array of industrial, commercial and consumer applications, including non-stick cookware, waterproof clothing, stain-resistant fabrics, food packaging and firefighting foams. Scientists have found that these chemicals break down very slowly, if at all, in the natural environment. They have also found that some accumulate in the human body. These chemicals travel through water, air, and soil. Humans ingest them, inhale them and absorb them through their skin. It is estimated that 90 percent of Americans have detectable concentrations of PFAS in their blood.

Some of these chemicals are associated with a number of negative health effects. To date, scientists have detected pollution from these chemicals all over the world and in nearly every State. It appears to be concentrated in communities located near or downstream from military bases, airports, firefighting facilities and chemical manufacturing and

processing facilities.

In March, this committee heard from four witnesses representing the Environmental Protection Agency, the Department of Health and Human Services, and the Department of Defense in order to learn what steps the Executive Branch is taking to address the risks associated with PFAS. Today we are going to examine six bipartisan bills which have been introduced to address these risks. They include S. 638, introduced by Ranking Member Carper and Senator Capito, S. 950, introduced by Senators Stabenow and Rounds, S. 1251, introduced by Senators Shaheen and Portman, S. 1372, introduced by Senators Stabenow and Rubio, S. 1473, introduced by Senators Gillibrand and Capito, and S. 1507, introduced by Senators Capito and Gillibrand.

Addressing this pollution is a priority of this committee. That is why we included provisions to help public water systems address emerging contaminants, including PFAS, in America's Water Infrastructure Act. It is also why I intend to negotiate and report a bipartisan legislative package addressing PFAS pollution this Congress.

I can't support some of these bills as currently written. For example, I am concerned about sidestepping the rulemaking process used to assess the risks associated with chemical compounds under our Nation's bedrock environmental laws. Congress established these rulemaking processes decades ago. It

believed that federal agencies are better positioned to evaluate the science behind the regulation of chemicals.

In addition, I question whether we should treat all PFAS as if they posed the same level of risk to human health and the environment. These chemical substances vary widely. While much more research is needed, the risks these chemicals pose does seem to vary as well. Some of these compounds are used in medical devices, like pacemakers. Others are used as inhalers. It is critical that we acknowledge the differences among these chemicals.

I also have concerns about Congress imposing Superfund liability on parties that use these substances in good faith. For example, our Nation's airports, refineries and others used firefighting foam containing PFAS in order to protect their workers and the public at large. Others, like metal finishers, used these chemicals as a means to successfully reduce air emission and workers' exposure to cancer-causing heavy metals. All these entities were either following regulations or the industry's best practices. Still others, like wastewater treatment facilities and landfills, are often unknowing recipients of PFAS.

Congress has a critical role to play in ensuring that the Federal Government responds to the risks associated with these chemicals in a timely manner. Today's hearing is an important

step in identifying how we should proceed on this issue.

I would now like to turn to Ranking Member Carper for his opening statement.

[The prepared statement of Senator Barrasso follows:]

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. Thanks, Mr. Chairman. Good morning, everyone. Thanks for joining us, nice to see you.

Thank you, Mr. Chairman, for scheduling this hearing, and for the collaborative way in which you and your staff have approached our committee's work on addressing a lot of issues, but particularly the contamination from per- and polyfluoroalkyl substances, otherwise known as PFAS. Thank God for acronyms. I have never been a fan of acronyms, Mr. Chairman, but on this subject, I am definitely one.

I suspect that just about every member of our committee has heard from their constituents with concerns about PFAS contamination in their respective States. PFAS can be found nearly everywhere, from non-stock cookware to microwave popcorn bags to cleaning products and stain-resistant fabrics to firefighting foam used at military bases and airports across the Country.

Forty-six years ago this spring, Mr. Chairman, I was a young Naval flight officer stationed at Moffatt Field Naval Air Station. We operated P-3s out of there, out of Hunt for Red October, and did a lot of missions off the coast of Vietnam and Cambodia during the Vietnam War.

But in April of 1973, I was driving into work one morning,

didn't have to fly right away. I was a couple miles out from Moffatt Field, where we shared a base with NASA. They had some big planes there, and we had our Navy P-3s, which are not small planes, by any stretch of the imagination.

But as I drove to work on a sunny April morning, I could see from a distance, several miles away, a large black plume of smoke arising from the air station while I was some distance away. A large NASA Convair jet had been cleared to land on the same runway and at the same time as a Navy P-3 aircraft. Literally, the larger plane squashed the smaller plane.

It took over an hour for firefighters to control the blaze. Later that day we would learn that 16 people had died, I think the entire crew of the NASA Convair and all but one crew member on the P-3. I understand that the use of the chemicals that were used that day, fighting that fire, trying to save lives, has supported our military readiness and saved lives. But the cruel irony is that when PFAS ends up in a glass on a kitchen table or in this glass of water those same chemicals can endanger lives, not save them.

Our colleagues in the industry often remind Congress that PFAS chemicals are used in everything from medical devices to solar panels. I think I can speak for just about everyone when I say that is not a really good point. We want PFAS chemicals to stay in the solar panels and not in our drinking water. That

is really why we are here today.

These highly persistent and ubiquitous chemicals are threatening the drinking water of millions of people in our Country and, I am sure, outside of our Country, too. In the southwestern corner of Delaware, for example, the people in the small town of Blades, right outside the slightly larger town of Seaford, were told last year or maybe two years ago to stop drinking the water there because PFAS chemicals were found to be present at nearly twice the federal health advisory level. Just up the road at the Dover Air Force Base, roughly 50 miles away, more than half the groundwater wells tested there show dangerously, dangerously high levels of PFAS and PFOA.

I have a map here, a map of our Country. This recently released map shows that more than 600 locations in 43 States are contaminated. Those are just the known locations. My hope is that the witnesses, all of you before us today, will work constructively with our committee as we seek to forge a consensus approach to addressing this complex problem. My hope is that we all leave here today in strong agreement that Congress must take action sooner, rather than later, because this is an issue that deserves a sense of urgency.

One might think that the extent of this problem would lead the Environmental Protection Agency to respond with a sense of urgency. But sadly, that has not been the case, at least not

yet. First, EPA's 2019 PFAS action plan largely includes commitments to consider, to consider whether to regulate PFAS contamination, steps that Scott Pruitt, and that is almost a year earlier, second administrator, really, really refused to commit to setting a drinking water standard for PFAS until public and Congressional outcry forced him to reverse course before he was confirmed. Finally, EPA weakened its draft guidance for cleaning up contaminated PFAS sites following pressure from the Defense Department.

So it is no surprise that many States are taking matter into their own hands and setting their own drinking water and cleanup standards. Neither is it a surprise that many elected officials have concluded that federal legislation is needed to more urgently and decisively address this challenge.

Six pieces of bipartisan legislation that seek to do just that are the subject of today's hearing. Among other things, these bills seek to designate PFAS as a hazardous substance under the Superfund law, to compel EPA to establish a safe drinking water standard for PFAS within two years, inform the public when the PFAS chemicals are being released into the environment, as well as create faster cleanups and more interagency coordination and research and monitoring technologies.

While some of the bills before our committee today propose

to regulate every single PFAS chemical, and there are a lot of them, as you know, others have concluded that all of these chemicals do not pose the same safety and risks, a point raised by the Chairman in his statement. People have raised some implementation concerns about immediately regulating every single PFAS chemical at once.

One approach to addressing this concern lies in the PFAS Release Disclosure Act, authored by Senator Capito, on which my staff and I were proud to work and co-sponsor, along with Senator Gillibrand. That bill, our bill, would immediately add about 200 to the 602 PFAS chemicals currently in commerce to the Toxic Release Inventory, so that the public would be informed when those chemicals are released into our environment.

This bill does so by acknowledging the EPA's authority under the Toxic Substances Control Act to find that these specific PFAS chemicals do pose a risk. Thus, there is no need to do more research or spend more time before adding these chemicals to the Toxic Release Inventory.

The bill also ensures that in the future, whenever EPA finds that additional PFAS chemicals pose a risk, these chemicals will also be included in the Toxic Release Inventory. I am especially interested in our witnesses' views on this particular approach.

In the Navy, where I spent 23 years of my life, actually 27

years of my life, but when faced with an especially challenging mission, we would call for all hands on deck, even if we were not on a ship, we would call for all hands on deck. Today, we need a different kind of all hands on deck. But we do need one, nonetheless. When our committee, this committee, overhauled TSCA a couple of years ago, we did so with a partnership that included all of us, EPA, industry and many environmental and public health organizations. We need those same partners to pull together again now in order to support our committee's work to expeditiously develop legislation and improve legislation already introduced to address the PFAS contamination problems that we face in communities as we saw from this map across the Country. A growing number of Americans are counting on that, to do just that, and we can't let them down.

So Mr. Chairman, thanks very much for this important hearing. I will be here for part of it, but I have to slip over to another meeting at the White House on infrastructure. I will download with you later, maybe after lunch.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Thank you very much, thanks, Senator Carper.

We do have a wonderful group of witnesses today. We are going to hear from them now. We are joined by Dr. Kimberly Wise White, who is a Senior Director in the Chemical Products and Technology Division at the American Chemistry Council. Thank you for being with us. We also have with us Lisa Daniels, who is the Past President of the Association of State Drinking Water Administrators, and is currently the Director of the Bureau of Safe Drinking Water at the Pennsylvania Department of Environmental Protection. We have Scott Faber, who is Senior Vice President of Government Affairs at the Environmental Working Group. And finally, G. Tracy Mehan, who is the Executive Director of Government Affairs at the American Water Works Association.

Welcome to all of you. I want to remind you that your full written testimony will be made part of the official hearing record today. So please try to keep your statements to five minutes, so that we will have time for questions. I look forward to hearing your testimony.

With that, we can start with Ms. White.

STATEMENT OF KIMBERLY WISE WHITE, Ph.D., SENIOR DIRECTOR,
CHEMICAL PRODUCTS AND TECHNOLOGY, AMERICAN CHEMISTRY COUNCIL

Ms. White. Good morning, Chairman Barrasso, Ranking Member Carper and members of the committee. My name is Dr. Kimberly Wise White and I am a toxicologist with the American Chemistry Council.

My work has focused mainly on supporting scientific research and chemical risk assessment practices focused primarily on up to date scientific knowledge and the most relevant scientific approaches.

I appreciate this opportunity to provide a scientist's perspective on several of the legislative proposals before the committee today. Addressing concerns regarding potential public health risks of PFAS and ensuring safe access to drinking water for all Americans is critically important. ACC shares this committee's commitment to identifying ways to address and where warranted, mitigating the risk, of PFAS chemistries. The chemical industry supports a comprehensive approach to managing these substances, including specific measures to prioritize, evaluate, regulate, innovate and monitor PFAS chemistries. Having science at the forefront of regulatory approaches allows for the most relevant data on hazard and exposure, validated methodologies and relevant, issue-specific expertise to underpin decisions.

Let me take this opportunity to highlight four points which illustrate the important role science has in any chemical management strategy. First, today's PFAS chemistries play an essential role in modern life. PFAS is a term that describes a wide and diverse variety of substances in a broad range of applications that provide strength, durability, stability and resilience. For example, today's PFAS are used in medical devices, the development of semiconductors and applications in energy and fuel efficiency. Taking an overly broad approach to addressing PFAS chemistries that lacks a scientific foundation will make it difficult to implement effective regulatory policies.

Second, application and adherence to the administrative process is critical for PFAS chemical management. The Administrative Procedures Act governs the process by which federal agencies develop and issue regulations. Circumventing the regulatory process by developing legislation that does not provide for public input and does not allow those federal agencies to utilize their specific expertise undermines the process and may lead to regulatory decisions that lack a sound basis and which do not focus on the priority issues.

Thirdly, science-based approaches should be the foundation of any legislation and regulation. A robust body of science demonstrates the vast differences among individual PFAS, and

peer-reviewed data shows that fluoropolymers, for example, and several other PFAS chemistries do not present a risk to human health or the environment. Given this information, it is not appropriate to treat all PFAS chemistries the same. This includes when establishing drinking water levels, cleanup levels of lifetime safe exposure limits.

To be scientifically credible, proposed legislation seeking to develop maximum contaminant levels for drinking water should be consistent with the Safe Drinking Water Act. Similarly, scientifically credible and meaningful cleanup levels should use directly relevant scientific information to determine if it warranted designation as a hazardous substance or the establishment of cleanup levels. Most importantly, the leadership of federal agencies with a primary mission to protect human health and the environment is critically important to any successful implementation of a regulatory approach.

Finally, a single class approach to evaluating PFAS is not scientifically justified. As I have mentioned, no two PFAS substances have the same hazard or environmental profile. This is critically important in evaluating specific chemical information.

Last week, the National Academies evaluated the same question of whether a single class approach could be applied to evaluating another set of chemistries, and they concluded that

it was not scientifically appropriate. Instead, the National Academies suggested the identification of subclasses using chemical structure, chemical physical properties, toxicological information, and bioactivity to make determinations. ACC believes that a similar approach could be taken for addressing PFAS.

In summary, ensuring that up to date, high quality data and science-based approaches underlie regulatory decision making is critical to protecting human health and the environment. This can be achieved by recognizing that a one size fits all approach is not appropriate. Understanding and prioritizing PFAS chemistries will be critical to this committee's effort to maximize federal resources and focus on priority issues. This also allows technologies that are not a threat to human health or the environment to continue to achieve their intended purpose, which is advancing innovation.

Thank you for this opportunity to provide testimony, and I look forward to addressing your questions.

[The prepared statement of Ms. White follows:]

Senator Barrasso. Thank you very much, Dr. White. We appreciate your testimony.

Now, Ms. Daniels.

STATEMENT OF LISA DANIELS, PAST-PRESIDENT, ASSOCIATION OF STATE
DRINKING WATER ADMINISTRATORS AND DIRECTOR, BUREAU OF SAFE
DRINKING WATER, PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Ms. Daniels. Good morning, Chairman Barrasso, Ranking Member Carper and members of the committee. Thank you for inviting me to speak today.

My name is Lisa Daniels. I am the Past President of the Association of State Drinking Water Administrators, whose members include the 50 State drinking water programs, five territorial programs, the District of Columbia and the Navajo Nation. ASDWA members have primary oversight responsibility for implementing the federal Safe Drinking Water Act. Our members and their staff provide technical assistance, support, and oversight of drinking water systems which is critical to ensuring safe drinking water.

I am also the Director of the Bureau of Safe Drinking Water within the Pennsylvania Department of Environmental Protection.

Today, I will discuss ASDWA's perspective on gaps in existing federal laws and regulations and how the proposed legislation and strengthened federal actions can more effectively address PFAS. PFAS had been a growing concern for the drinking water community for more than a decade. The solubility, mobility, and bio accumulative properties of PFAS

continue to heighten concerns about potential adverse health effects. States, water systems and the public need national leadership to address this growing public health problem.

ASDWA believes the question is not whether to regulate PFAS, but how and when, using sound science. ASDWA's key issues include the following. Number one, coordinated federal leadership is needed to effectively address PFAS. States are at different stages in their knowledge and implementation of PFAS measures. While some States have the authority and the technical and financial resources to develop their own standards, many do not. EPA's PFAS action plan is a step in the right direction, but without firm timelines and commitment, many are looking to States to take the lead on PFAS.

In my own State of Pennsylvania, we have announced steps to move forward with setting an MCL. To support this effort, we are coordinating statewide sampling to generate occurrence data, we are contracting for additional toxicology services, and we are gearing up to be able to analyze for PFAS in our State lab. It is important to know that this will be the first time that Pennsylvania has set its own MCL, and these actions have been and will continue to be a challenge due to limited resources. We estimate that at least \$1.5 million annually will be needed for us to be able to move forward and set this proposed rulemaking.

Twelve other States have taken some action to set the State standards or advisory levels, which has led to a patchwork of regulations which pose significant challenges in terms of risk communication and certainly a burden on these States in terms of resources.

Number two, ASDWA believes that PFAS must be addressed using a multi-media and cross-statutory approach. To fully address PFAS, actions under CERCLA, TSCA, the Clean Water Act and the Safe Drinking Water Act should be evaluated and strengthened where needed to remediate legacy PFAS and reduce or eliminate the introduction of these chemicals into the environment, and most importantly, make the manufacturers responsible for those costs. ASDWA also advocates for regulation as a class or classes, rather than one contaminant compound by compound basis.

Number three, ASDWA supports the development of a national priority framework and research agenda for PFAS and other emerging contaminants. Additional occurrence data is needed to quantify the extent of PFAS in water. Increased availability of toxicity and human health data is also necessary to support policy decisions. Other related needs include a total organic fluorine method for screening purposes, additional PFAS analytical methods for other matrices like wastewater and soil. Increased lab capacity is a real concern across the State, and

treatment efficacy, design and construction standards for treatment.

Number four, additional funding for EPA, the States and water suppliers is essential. At present, State primacy agencies are diverting resources from core drinking water programs, including inspections and plan reviews, to address PFAS. Without additional funding, both the core program and the work to address PFAS will suffer. Increased funding is needed for EPA to support the development of treatment technologies, laboratory methods, and really help with lab capacity issues.

Certainly, alternate funding sources are going to be needed for our public water systems to deal with treatment costs when a responsible party cannot be identified. We will not be able to identify a responsible party in all cases. And SRF programs, although they can provide loans, do not have the subsidy to address the big issue of PFAS and continue to deal with other important issues, like lead, for example.

So in conclusion, ASDWA applauds Congress for moving the ball forward and introducing several bills in both the House and Senate that gives us a much broad perspective on PFAS. Thank you.

[The prepared statement of Ms. Daniels follows:]

Senator Barrasso. Thanks so much for your testimony, Ms. Daniels.

Mr. Faber.

STATEMENT OF SCOTT FABER, SENIOR VICE PRESIDENT, GOVERNMENT
AFFAIRS, ENVIRONMENTAL WORKING GROUP

Mr. Faber. Thank you, Chairman Barrasso, and Ranking Member Carper.

Last week, Ken Cook, the President of EWG, and I had the opportunity to spend a day on Capitol Hill with Sue Bailey, who is a resident of Parkersburg, West Virginia, who was exposed to PFOA in the 1960s while she was pregnant, and with her son, Bucky Bailey. While we were meeting with Senator Carper, Senator Carper asked Sue, how would you address, how would you tackle the PFAS problem. Senator Carper, you remember what Sue said. She said, how do you eat an elephant? And of course, the answer is one bite at a time.

I think this hearing really reflects the spirit of Sue Bailey, that while we won't solve all of the challenges facing the PFAS contamination crisis by passing these six bills. These six bills will tell us much more about the extent of PFAS contamination. They will tell us much more about the sources of PFAS contamination. And they will begin to start the cleanup process and clean up a mess that, frankly, has taken three generations to create.

As you have heard, nearly all of us are contaminated with these forever chemicals. We are exposed to dozens of PFAS every day through our food, water, dust, clothing, carpets, even

through our cosmetics. And exposure to even very low doses of PFAS are associated with very serious health risks. While the health effects of PFOA and PFAS are well understood, due in large part to what happened in Parkersburg, West Virginia, there is growing evidence that replacement chemicals, like GenX and PFES and many others pose many of the same risks.

So clearly, it is time to act. But as Senator Carper said, EPA's proposed action plan really fails to treat this contamination crisis like a crisis, or as Senator Capito said at your hearing in March, EPA is not acting like this is personal. And for people like Sue Bailey or Bucky Bailey or people who live near F.E. Warren Airbase or Dover Airbase, this is very personal. And that is why today's hearing is so important.

Bills like S. 950, the PFAS Detection Act, will help us better understand just how extensive the PFAS crisis is. In addition, requiring water utilities to monitor for all detectable PFAS in the next unregulated contaminant monitoring rule is equally important. Bills like S. 1507, the PFAS Disclosure Act, will add hundreds of PFAS to the Toxic Release Inventory, which is an important first step that will tell us much more about where PFAS pollution is coming from.

Bills like S. 638 and S. 1372 will help us accelerate PFAS cleanup efforts, and in particular, S. 638, the PFAS Action Act, will kick start the PFAS cleanup process, and S. 1372, the PFAS

Accountability Act, will ensure that federal agencies, including the Department of Defense, take responsibility for their legacy pollution.

S. 1473, the Protecting Drinking Water from PFAS Act, will require EPA to finally set a drinking water standard for water utilities. As you have heard, States are leading the way, setting tough science based PFAS drinking water standards. EPA standards should build on the progress being made in States like New Jersey and Pennsylvania. But you shouldn't have to live in New Jersey or Pennsylvania to have clean water.

So as Sue would say, we have to eat this elephant one bite at a time. But there are some other steps that Congress should also take to ensure that we don't make the PFAS problem worse. First, we should address ongoing releases of PFAS into the air and water. Second, we should ensure that sewage sludge contaminated with PFAS is not being spread on our farm fields. And third, we should ensure that PFAS wastes are being properly disposed.

Last year, Congress took steps to reduce the use of fluorinated foams at civilian airports. The bills that are the subject of today's hearing and the other steps I have just mentioned would help build on that progress.

Thank you for the opportunity to testify.

[The prepared statement of Mr. Faber follows:]

Senator Barrasso. Thank you very much for your testimony,
Mr. Faber. We're very grateful.

Mr. Mehan.

STATEMENT OF G. TRACY MEHAN, III, EXECUTIVE DIRECTOR, AMERICAN
WATER WORKS ASSOCIATION

Mr. Mehan. Thank you. Good morning, Chairman Barrasso, Ranking Member Carper and members of the committee. My name is Tracy Mehan, I am Executive Director of Government Affairs for the American Water Works Association, or AWWA, on whose behalf I am speaking today. I appreciate this opportunity to offer AWWA's perspectives on the many pressing issues surrounding PFAS.

Let me first of all say that this is a congenial environment for me. This committee had confirmed my nomination as Assistant Administrator for Water back in 2001, so this is a congenial environment.

I also want to thank the committee, the entire committee, for their support in reauthorizing the Drinking Water State Revolving Loan Fund, as well as doubling the authorized amount for that fund, as well as putting RIFIA, the new federal credit program for water infrastructure, on a permanent footing. We are most grateful for that support for what is maybe the greatest single threat to the public health of the United States and the drinking water sector.

AWWA's 50,000 members represent the full spectrum of water utilities, small and large, rural and urban, municipal and investor owned. I speak not only from the perspective of AWWA,

but as a former State and federal regulator, an adjunct professor of environmental law and a cancer survivor. Our members are really the most customers facing of anyone dealing with this issue day and deal every day with their customers in hopefully an honest, truthful and straightforward way as to what we know and what we don't know about the various risks facing our drinking water systems.

Drinking water utilities and State environmental agencies need to know where to focus monitoring resources to understand what risks may be in source waters. This is a key part of what we call source water protection. There are existing tools that EPA could be using to a greater degree to help address such concerns regarding PFAS. In particular, as mentioned by Lisa, the Toxic Substances Control Act, or TSCA, deploying these authorities in the service of safe drinking water is source water protection at the most strategic level.

Working with EPA's technical staff, which we heartily encourage, we agree that we need an all hands on deck approach, and TSCA is probably one of the biggest hands to use. We urge Congress to ensure that EPA takes advantage of such existing authorities under TSCA to manage risks posed by PFAS compounds. Using this authority, the agency needs to provide a report in one year and update it every two years, describing the location of current and past PFAS production, import, processing, and use

in the United States for individual PFAS compounds, based on the data collected through TSCA. We have tried to get some of this information, and it is not that easy, although we believe it is there. Appropriate actions should also be planned or taken under TSCA to restrict production, use and import of PFAS and support improved risk communications with the public. Actions taken by other federal agencies, in particularly the Departments of Defense and Human Health Services to address PFAS concerns should also be reported upon.

Finally, statutory and non-statutory barriers encountered in gathering and distributing information on PFAS in order to inform risk management decisions by EPA, States and local risk managers, should be included.

EPA officials promised to issue a proposed regulatory determination of PFAS and PFOA under the Safe Drinking Water Act processes this year. We urge Congress to support EPA's Office of Water, particularly in appropriations, as it works through the rule determination process.

With regard to federal drinking water standards setting process, we understand that it is frustratingly slow. However, a scientific risk-based and data-driven process that discerns what substances are to be regulated and at what levels is indeed going to take a significant amount of time and resources. We caution against setting a precedent by bypassing these

established processes via legislative action. The Nation tested that approach with the 1986 amendments to the Safe Drinking Water Act with untoward results. There is an appendix to my written testimony which sets out some of the concerns and problems that relate with that. I would be happy to discuss that.

That said, we are eager to follow the data on PFAS wherever it goes, and we will work with our members to comply with whatever regulations are forthcoming. Believe me, the biggest concern we face is the trillion dollar need to replace and expand our water infrastructure. Water rates are going up at maybe 3 percent higher than the CPI. We have additional costs now with lead service line replacements. So we need to make smart decisions so we do not mis-deploy resources going after less risky challenges than the ones we already know.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Mehan follows:

Senator Barrasso. Well, thank you very much for your testimony. Thanks to the entire committee. We are going to now proceed with some questions.

I would like to start, Dr. White, visiting with you about, as EPA has said, it has initiated the regulatory development process for listing two specific PFAS substances, PFAS and PFOA, as hazardous substances under the Superfund law.

Does the American Chemistry Council support EPA's ongoing process of what they are talking about doing in this matter?

Ms. White. Thank you, again, Senator Barrasso, for your question. ACC does support EPA's activities to review and determine whether or not PFAS and PFOA should be designated as hazardous substances under the CERCLA Act. Again, as a scientist, it has to be a science-based process, that outlines and follows the science and the data that we would need to determine whether or not they actually would comply with that.

So as long as it is a science-based process, ACC absolutely supports EPA's review and would like to see that expedited, so we can make a determination.

Senator Barrasso. So if enacted, several of the bills, again for you, Dr. White, several of the bills that we are considering today would regulate all PFAS substances in the same manner. Would you help us understand some of the principal differences between chemicals within this class?

Ms. White. Absolutely. As I mentioned from the very beginning of my testimony, all PFAS are different. They don't have the same hazard profile or environmental profile. For example, fluoropolymers are very large molecules that are usually not bioavailable and not water soluble. So again, you would not find them in drinking water, for example, and you would not see them having increased toxicity.

So you can't treat all of these PFAS chemistries the same. That is why you can't have a one size fits all approach. You really have to look at the scientific data that is relevant for each one of those chemistries, determine whether or not there is a potential human health risk, and then take action if there is.

Senator Barrasso. Thank you. Ms. Daniels, if I could turn to you. In some communities, PFAS is just one of the many known drinking water contaminants. Help us understand how the risks associated with PFAS compare to the risks associated with other drinking water contaminants. And you know what they are, we can go through them, lead, disinfection byproducts, legionella, a number of different things out there.

Ms. Daniels. Sure, thank you for your question. Absolutely, there are other high priority contaminants out there that water systems and States are dealing with. In a lot of those cases, the risk is known. We know a lot about those chemicals. Legionella and other pathogens, microbial pathogens,

have always been a big part of protection efforts, because you have acute health effects associated with those chemicals.

Legionella has been a challenge for us, and one of the concerns is if you are tracking water-borne disease outbreaks through the CDC reporting, legionella has actually increased 550 percent since 2000 in terms of the number of outbreaks. So it is something we are very concerned about.

It is one of the reasons, in our testimony, that we talk about the fact that working on PFAS is taking work away from our core programs, which concerns us a little bit. Lead continues to be a major issue for States. I think we are doing what we can to really focus on lead in schools and lead in day care facilities as we await EPA to come out with their long-term revisions to the Lead and Copper Rule.

So having said that, PFAS is important to States, it is important to water systems. The challenge with PFAS, it is everywhere. It is everywhere. It is everywhere. I don't know that I have quite seen a contaminant like that, where you have to be so concerned when you are taking a sample, about cross-contamination. If you have deodorant on, if you have put lotions on that day, you have the potential to cross-contaminate that sample.

So when I think about PFAS, there absolutely has to be focus on an incremental reduction of getting those chemicals out

of commerce because we can't just solve this as a drinking water issue.

Senator Barrasso. Thank you very much.

Mr. Mehan, if I could just visit with you. In your testimony, you discuss the process to establish a national drinking water standard. You state caution against setting a precedent of bypassing these established precedents via legislative action. You say the Nation tested that approach in the 1986 amendments to the Safe Drinking Act with untoward results.

Could you explain what happened following those amendments in 1986 for some of us who weren't there at the time?

Mr. Mehan. Right. At the time, I was running the Missouri Department of Natural Resources which had delegated primacy for the drinking water program. Under the 1986 amendments, essentially, EPA was mandated to put out 25 new MCLs every three years, I believe it was. So we were at the receiving end of this process. Staff couldn't quite explain to me what the risks were that were being addressed, but nonetheless, we had to go to our legislature, beg, borrow and persuade to get a fee in place. Of course, the utilities didn't like that, the customers didn't like it. Nobody liked it, but we had to do it. Of course, then, there was just the rulemaking process and the cost.

So it was kind of a mess. There is also the question of

misdirection of resources, what are the opportunity costs of this approach as opposed to dealing with real risks like lead, disinfection byproducts, et cetera, are the basic infrastructure of the utilities themselves.

In the appendix I have, I have a quote from June Swallow of the Rhode Island Department of Health, Lisa's predecessor at ASDWA, who basically excoriates the 1986 amendments and said instead, new regulated contaminants would be selected based on whether their health risk occurrence and comparative risk from other exposure pathways warrant regulation. There is also quotes from Bob Perciasepe, who you all know, who was running the Maryland agency at the same time I was running the Missouri agency. While he was at EPA, they pretty much expanded on that criticism, in terms really of relative or comparative risk type of analysis.

So that was my lived experience with it, and I think it was shared by others who were in the trenches at that time.

Senator Barrasso. Thank you very much.

Senator Carper.

Senator Carper. Thanks, Mr. Chairman. I just want to commend, not just our panelists, but I want to commend our staffs. Sometimes we have before us witnesses that are majority witnesses, minority witnesses. You are all consensus picks, and I think early wisely chosen. So thank you for taking the time

and preparing for this and for responding to our questions.

I think, Mr. Mehan, you indicated you had been in this room before. I suspect others have, too. But for those who are here on a return visit, welcome home.

Mr. Mehan. Thank you.

Senator Carper. It is good to see you all.

I am not a big one for yes or no questions, but I am going to do a few of those today. And I am going to do it by asking you to raise your hands if you disagree with a particular statement. I will go slowly and ask you to work with me on this if you will. We will see how it goes.

Please arise you hand if you disagree, if you disagree that some PFAS chemicals have been shown to be harmful to human health. Please raise your hand if you disagree that some PFAS chemicals have been shown to be harmful to human health. I see no hands. Thank you.

Second question. Please raise your hand if you disagree, if you disagree, that there should be a federal drinking water standard to regulate the harmful PFAS chemicals that are also found in drinking water. I will say it again. Please raise your hand if you disagree that there should be a federal drinking water standard to regulate the harmful PFAS chemicals that are also found in drinking water. Please raise your hand if you disagree.

We have one who disagrees. Dr. White, thank you.

Mr. Mehan. I would demur to the question, Senator, in that we do not support nor oppose. We commit to the process of making a regulatory determination of whether an MCL is needed.

Senator Carper. Okay.

Mr. Mehan. Primarily for looking at the two prime suspects.

Ms. White. I would also agree with what Tracy said, that you really have to make sure that you are following the regulatory process and using the science as the basis for making that determination.

Senator Carper. Okay, thanks.

You have an opportunity to raise your hand if you wish. Please raise your hand if you disagree that the public should be made aware of releases of harmful PFAS chemicals into the environment. Please raise your hand if you disagree that the public should be made aware of releases of harmful PFAS chemicals into the environment.

I see no hands. On the second question, we had two who spoke. I didn't see too many hands. But I had a couple people who spoke, and that was fine.

A fourth question would be, please raise your hand if you disagree that EPA should have the authority under the Superfund law to require responsible parties to pay for the cleanup of

harmful PFAS chemicals, or to clean up itself in cases where no responsible party can be found. I will say that one again. Again, please raise your hand if you disagree that EPA should have the authority under the Superfund law --

Mr. Mehan. Again, Senator, it is not a question of being for or against. We understand the utility of a hazardous waste designation.

However, you have received a letter from actually several of our sister associations, AMWA, NACWA and WIF, and one of the issues is the impact on biosolids application, on pre-treatment, on the wastewater side of the house. As I recall, the exact position of NACWA and WIF was that a hazardous waste designation under CERCLA would be appropriate as long as there is an exemption for water and wastewater utilities.

Senator Carper. Fair enough.

Mr. Mehan. Thank you.

Senator Carper. I saw no other hands. I would like to go on. Very briefly, Dr. White.

Ms. White. I feel I should jump in here, just following onto what Tracy said. You really do have to follow what the CERCLA requirements are. So as long as those are followed, then yes. But it has to be based off the science, as outlined in CERCLA.

Senator Carper. Fine. And finally, I tell you what. I am

not going to ask this next raise your hand question, but I am going to go to something further. I know that there is more to providing input on legislation than just raising your hands. I appreciate that. Thank you for doing that for us. But to that end, I just want to ask each of you, just very succinctly, tell us what your top priority for PFAS legislation is. Just very succinctly, what would be your top priority for PFAS legislation? Dr. White?

Ms. White. My top priority is that it is science based, and based off the most relevant and best available science for those individual chemistries to make decisions.

Senator Carper. You are on message, which is a good thing. Ms. Daniels?

Ms. Daniels. I would like to see additional legislation where it is needed to really enhance what can be done under TSCA. EPA talks about TSCA being the gatekeeper. Right now, I think the gate is wide open, and I am not even sure where the key is. So I think if we can take a look at the authorities under TSCA and see if anything else can be done to get some of that up-front work first done, before these chemicals are already out in the environment and potentially in drinking water.

Senator Carper. All right, thank you. Mr. Scott Faber.

Mr. Faber. We think that we really need to kickstart the

cleanup process, especially where communities are wrestling with very seriously contaminated drinking water supplies. And we also need to make sure that federal facilities, especially DOD, take responsibility for their legacy pollution, so that the PFAS Action Act and the PFAS Accountability Act, we just want to assure that DOD does live up to its responsibilities would be our top priorities.

Senator Carper. Just very briefly and succinctly, Mr. Mehan, the same question. Your top priority for PFAS legislation.

Mr. Mehan. Reflecting both my written and oral comments, we need to get TSCA in the game more vigorously, and also respect the processes in the Safe Drinking Water Act.

Senator Carper. All right, great. Thank you all very, very much. I am going to slip out here and go solve the infrastructure problems of our Nation while the rest of you deal with an equally important issue of the PFAS and PFOA. Thank you.

Senator Barrasso. Thank you, Senator Carper. Senator Capito?

Senator Capito. Thank you, Mr. Chairman, thank all of you for being here today. Thank you for today's hearing to examine the challenges associated with PFAS contamination across the Country.

Unfortunately, these issues are all too familiar to West Virginia. We have had our communities at entire end of our States that have faced the challenges Mr. Faber just talked about, responsibility to federal facilities. So given the volume of testimony provided to the committee for the hearing record, this issue is clearly one of national interest and significance.

With my constituents in mind, I have engaged in several pieces of legislation meant to address this program, working in collaborative and bipartisan fashion, both with Ranking Member Carper and also with Senator Gillibrand. Indeed, we rotated sponsoring, co-sponsoring, each other's legislation.

But the bill that I have led, which is the S. 1507, PFAS Release Disclosure Act, would set up a process for EPA to add various PFAS to the toxic release and the TRI, Toxic Release Inventory, subject to the completion of review. I want to get to that issue, because I think it requires determinations to be grounded in science. You have talked about science, and backed by regulatory review processes that involve notice and comment. The bill does not include the entire class of the known 6,000 PFAS compounds.

So getting to my question, Dr. White, I just laid out the thinking of the sponsors, and of our disclosure act and how we designed a regulatory on-ramp for inclusion of PFAS into the

Toxic Release Inventory. Is it fair to ACC's members are familiar with the requirements of the TRI and associated filings?

Ms. White. Yes. ACC members are familiar with the TRI findings and how things should be listed. As you have highlighted in your bill, we would be supportive of reviewing the TRI requirements. So there are specific criteria that get chemicals listed on the TRI that determine whether or not there was actually an adverse health affect associated with those chemistries before they are listed.

So as a scientist, you would have to support that science review of the specific TRI criteria to determine whether or not the specific PFAS that you have identified here in the bill actually warrant listing under TRI.

Senator Capito. Obviously, by my support of the three bills, I feel just, of my awareness of what has happened in my particular State, I would say obviously that is why I am sponsoring this legislation, because I feel it does need to be included in the TRI.

But let me talk about some of the misinformation out there on this bill. It is onerous, and it would apply to actors like Mom and Pop gas stations and it would feed all kinds of civil lawsuits and short-circuit the EPA regulatory process. Mr. Faber, do you feel that S. 1507 prevents these sorts of outcomes

with its structure of regulatory approach? Do you have an opinion on that?

Mr. Faber. Only industrial dischargers in certain categories would be subject to your bill, Senator.

Senator Capito. Yes. Thank you. Ms. Daniels or Mr. Mehan, do you have anything to add on that point? The accountability measures inherent on the TRI will help limit or prevent emissions, hopefully relieving the remediation burdens on communities and water systems. So do you have anything to add on that point, since your stakeholders will have to deal with the contamination once it is in the water?

Ms. Daniels. Yes, thank you. I think it is absolutely necessary that we get more information out to both the public and the States in terms of where these chemicals are. I know as a State, we filed multiple FOIA requests in preparation for our sampling plan, because we wanted to know where the highest risk was. Nobody could tell us where these chemicals were being used. So right now, there is a lack of information.

Mr. Mehan. Senator, AWWA hasn't normally taken positions on TRI issues. But speaking personally, TRI is the premier information-based environmental program. I think it is a useful, hygienic way to encourage people to pursue pollution prevention, toxic use reduction through a relatively light-handed approach.

The only critique that I think has some merit about TRI is that all those listed are really risk based. I think, to the extent again, if you are talking PFAS as a category, we would caution against that approach. But to the extent you are picking a subset of high-risk compounds, that might be worth a conversation.

Senator Capito. Our staffs, both Republican and Democrat, have worked with ACC's members and AWG to try to arrive at a solution here on S. 1507. So I would ask both you, Dr. White, Mr. Faber, if you would continue to work with us in a collaborative way so that we can find a sweet spot here in something that is very troubling.

Ms. White. Thank you.

Mr. Faber. Thank you, Senator.

Senator Capito. Thank you. I will just say this in my final 10 seconds. We can sit up here and talk about CERCLA and TRI and PFAS and PFOA and honestly, if my constituents are home or listening, they have no idea what I am talking about. What we are simply talking about is making sure that our drinking water is as safe as it can possibly be for us now and for future generations. Because a lot of these substances stay in your water forever or for what forever would be. Very long pieces of time.

So I think it is in all of our best interests to talk as

simply as we can about the goals that we have in terms of cleaning up our drinking water, remediating the problems, facing the problems and being honest about it and transparent, helping small water systems when and how they need it to meet these difficult challenges. Because we know that is going to be an issue.

So I am pledging to you to work with my partners here to find a way to find these answers, to make sure that our next generation does not wake up some day and find out that they have had a negative impact to something that we were talking about, CERCLA and TSCA and all these other things, and not quite getting to the real answers. That is my hope with being so active on these bills.

I thank you all for listening. Thank you.

Senator Barrasso. Thank you very much, Senator Capito. According to my records of arrival first, I think Senator Markey was here earlier and has come back.

Senator Markey. Much appreciated. Thank you, Mr. Chairman.

PFAS used in firefighting foams poses a particular danger to both civilian and military firefighters. The use of these foams during training and emergency response is a major source of PFAS contamination of groundwater on military bases and near civilian training facilities.

In my home State of Massachusetts, high levels of PFAS have been found near Fort Devens, Barnes Air National Guard Base, Joint Base Cape Cod, and the Barnstable County Firefighter Training Academy. Our firefighters and military personnel willfully put themselves in harm's way to keep their neighbors and Country safe. We should be all we can to keep them safe in return.

Mr. Faber, civilian airports can now use non-PFAS foams to fight fires, but our military members and many firefighters, civilian, remain at risk. What other steps should be taken to limit the use of PFAS-containing firefighting foams as well as better understand their risks?

Mr. Faber. Thank you, Senator. Firefighters do face unique risks from PFAS because PFAS is in the foams, as well as in the turnout gear that they wear to fight fires. While we do not know all the ways that firefighters are likely to get certain cancers, more than the rest of the population, we do suspect that PFAS is one of them.

One of the things that Congress should do is do more to test the blood of firefighters for PFAS and legislation has been proposed, the Protecting Military Firefighters from PFAS Act. That would also build on a study that was include in the NDAA last year, but did not include firefighters, and should have. So there are opportunities to better understand how PFAS are

impacting firefighters.

More broadly, we need to really accelerate efforts to reduce the use of fluorinated foams wherever possible, beginning with ending the use of fluorinated foams in training exercises, whether that is in civilian airports, training academies, and other situations.

Senator Markey. Great. In response to my questioning during the committee's previous PFAS hearing, Deputy Assistant Secretary Sullivan said that the Department of Defense would "meet any properly promulgated standard that is issued by the State, and roll it into our cleanup program." Mr. Faber, of the five States that have issued or proposed stricter regulations on PFAS contamination in water, would you consider these "properly promulgated?"

Mr. Faber. Yes, Senator. There is guidance on when a regulation, in this case, has been properly promulgated. It has to be legally enforceable; it has to be generally applied. Many States have already promulgated rules to restrict or reduce the presence of PFAS. Many other States are doing so. In certain situations, the Department of Defense should be deferring to those State standards when cleaning up these contaminated sites.

Senator Markey. And the PFAS Accountability would require cooperation between DOD and States on cleanup efforts.

As part of their jobs, non-military firefighters are

exposed to PFAS in multiple ways, including in their suits. This is an occupational hazard, and I believe we should be tracking this civilian worker exposure and addressing it, similar to what the military is doing for their firefighters.

Mr. Faber, do you agree that we should be studying occupational PFAS related hazards that might be affecting our community firefighters?

Mr. Faber. Absolutely. We should expand the NIOSH study that is currently underway to add firefighters to better understand the impacts that PFAS foams and turnout gear are having on firefighters.

Senator Markey. Disgracefully, they have been exempted from previous studies and are not getting the same blood tests that military firefighters are getting. That must change.

Mr. Faber, would designating harmful PFAS as hazardous chemicals under the Superfund law help communities near military bases that are struggling with contamination?

Mr. Faber. Yes, Senator. Designating PFAS as a hazardous substance under CERCLA would really kickstart the remediation process, so that communities that are located near air bases, other federal facilities, would be ensured that there would be an effort underway, either between DOD or in the case of NASA, or other federal facilities, an effort between EPA and the federal facility to clean up the mess and make sure that

responsible parties pay their fair share.

Senator Markey. So States are being forced to step up to protect the health of their residents, as the EPA continues to slow-walk a national plan of action. The least the Department of Defense could do is meet or exceed States standards. Instead, the Defense Department is denying and dodging, at the expense of our military members' and their families' health. Meanwhile, we still don't have the full answers for our firefighters in every community in the United States in terms of the protections they will be given.

Thank you, Mr. Chairman, and thank you, Mr. Faber.

Senator Barrasso. Thank you, Senator Markey.

Senator Whitehouse.

Senator Whitehouse. Thank you, Chairman. Thank you to the panel for being here. I want to add a thank you to somebody who is not here, which is my home State paper, the Providence Journal, which has done an amazing job of covering the threats of climate change along our coasts. They have done repeated front page, above the fold articles about the risks Rhode Island's coastline is facing and how we are having to prepare.

In that spirit, they have also done a terrific job on PFAS contamination in one of our municipalities, in Burrillville, which is facing water contamination. I would like to ask permission to put their article on Burrillville's contamination

into the record.

Senator Barrasso. Without objection, so ordered.

[The referenced information follows:]

Senator Whitehouse. Thank you.

Mr. Chairman, we have, I think, done some very good work in this committee in bipartisan fashion. We have done good work on TSCA, which ended up passing in very significant bipartisan fashion. Regrettably, we saw the Trump EPA make a hash of that bipartisan effort. Then in bipartisan fashion, we corrected it. I actually introduced a Trump nominee for the Toxic Chemicals Section at EPA to put us back on bipartisan course.

I think it is a real concern when a divided Senate comes together in bipartisan fashion on an issue like this and then finds that the agency has gone off on a partisan tear. We are supposed to be the political ones, not the agency. We saw it recently with the NRC. This committee, myself, Senator Crapo, the Chairman and others have done terrific work passing bipartisan nuclear innovation bills.

What happens? The NRC, on a partisan basis, goes out, outside of the record of the rules proceeding that they are operating under, and unilaterally, the Republican appointees only decide something that nobody asked for in the public record, which is that nuclear facilities shouldn't be required to prepare for flood risk. I don't know how you could have a dumber decision. And the fact that they would do that on a partisan basis, with such a good record of bipartisanship here on the committee, is very frustrating.

I think where this committee has stood together on a bipartisan basis, agencies need to take the message and work as if they were bipartisan too, and not inject a lot of nonsense, polluter-driven partisanship into the agency's decision. For Pete's sake, if we can get over it, you ought to be able to get over it out there in the agencies.

So this is a real frustration to me. Ms. White, the American Chemistry Council worked well with us on TSCA. I think that helped the signals about the early enforcement and was part of the solution that I brought Alex Dunn in, who I think is a good Administrator. I hope that you are leaning in as a council to try to solve this problem in that same bipartisan spirit on which we all worked together on the underlying TSCA bill and on correcting the initial enforcement.

Ms. White. Thank you, again, Senator Whitehouse. As you mentioned, and to me, as a toxicologist and a scientist, ACC is absolutely willing to be a constructive partner in this process, and making sure that science kind of underlies this process as we evaluate how to mitigate and manage any associated risks with PFAS chemistries.

Senator Whitehouse. Good. Because bipartisanship is a terrible thing to waste.

Ms. White. I agree.

Senator Whitehouse. It takes all the fun out of working in

a bipartisan fashion if what happens is, we get kneecapped by partisanship in an administrative agency, after we have avoided partisanship here in the most partisan of branches of government.

Ms. Daniels, we are likely to be taking up an infrastructure bill of some kind. Who knows? The President topped Speaker Pelosi's trillion dollars and said \$2 trillion. So who knows what is it going to be?

His budget person, Mr. Mulvaney, promptly came out and undercut the President, so we don't really quite know how that is all going to turn out. But there is a real likelihood, I think, of there being an infrastructure bill. Our side certainly wants one, and I think there has been considerable support on this committee on a bipartisan basis for our share of a strong bipartisan bill. I thank the Chairman for that.

What would you like to see in an infrastructure bill that would help your constituency deal with this contamination problem?

Ms. Daniels. Thank you for the question. Yes, we certainly are supportive of an infrastructure bill for all of the other things that water suppliers need. Pittsburgh, a town in Pennsylvania, is certainly one of those examples of what happens when you have deferred maintenance. That is a concern for us.

Specifically for PFAS, I do think we need to look at alternate funding sources. Because I do believe the incredible costs, so just to put GAC on one well, for example, could be anywhere from \$500,000 up to \$1 million. When you are talking about other advanced technologies for the shorter chain chemicals, like GenX, you are talking tens of millions of dollars.

We are going to have to think long and hard about alternate funding sources for these systems. Because there are already a lot of great needs within the SRF program itself to deal with lead and some of the other problems that we have been talking about here.

Senator Whitehouse. Mr. Chairman, I would just please urge that you all get back to us over whatever period of time is appropriate, even outside the scope of this hearing, to share with the Chairman and the members of this committee what some of your ideas might be for an infrastructure bill, so that we have a chance to look at them and digest them, and if things start to move in a serious way, that they get every fair consideration which they deserve. Okay? Thanks. Thanks, Mr. Chairman.

Senator Barrasso. Thank you, Senator Whitehouse.

Before turning to Senator Van Hollen, I would point out that the six bills posted for the hearing today were all bipartisan bills.

Senator Whitehouse. Great. Thank you.

Senator Barrasso. Senator Van Hollen.

Senator Van Hollen. Thank you, Mr. Chairman. I thank all of you for your testimony here today. Mr. Chairman, thank you for calling a hearing on the subject. I think all of us are concerned about PFAS contamination in our States.

In Maryland, we have five identified PFAS sites, Andrews Air Base, Fort Meade, Tipton Airfield, former David Taylor Research Center, now called Bayhead Road, Aberdeen Proving Ground and something called Chesapeake Bay Detachment. So we have five sites. We do have a good, cooperative group working between the Defense Department, EPA and the State, Maryland Department of the Environment. That is the good news.

But the Maryland Department of the Environment did indicate that they could use additional help and support. So when we contacted them about Senator Carper's bill, they were supportive. And I am a co-sponsor of that bill to designate PFAS as a CERCLA hazardous substance.

That of course makes federal agencies, in the case where it is federal agencies having PFAS, liable for the cleanup. I think that is important, because that now puts it not just as a voluntary effort, but a legal effort. Now, of course, the funding issue is real.

To all of you, when the Federal Government becomes liable

for cleanup, I assume that means they have to find the money within their budgets. Is that the case?

Mr. Faber. That is right, Senator. In the case of Wallops, for example, if NASA were to be found responsible for the PFAS pollution that were on base or off base, they would have to find the resources to help finance the cleanup. They could also see contribution from some of the other responsible parties, in this case, foam manufacturers or chemical companies. But ultimately it would be NASA dollars, not Superfund dollars, that would pay for the cleanup.

Senator Van Hollen. You anticipated my question, because Wallops is another facility where we have a PFAS issue. I listed five that are in the State of Maryland. PFAS is, of course, in Virginia, but very close to Maryland. We have workers from both States there trying to make sure that that is a safe facility.

So under that scenario, NASA would be primarily responsible for the cleanup.

Mr. Faber. For Fort Meade, for the parts of Fort Meade that are still under DOD control, it would be DOD's responsibility.

Senator Van Hollen. Now, in your experience, are those funds that come out of the, are there legal liability funds that are appropriate, or have they been separately appropriated in

the past?

Mr. Faber. In the case of DOD, DOD does have, under the Superfund Amendments of 1986, a program, the Defense Environmental Restoration Program, that has helped finance some of that remediation. So they have funding that is annually appropriated to help clean up contaminated sites, munitions, burn pits and so on. Not nearly enough money has been appropriated. And as we have heard earlier, DOD has been reluctant to take on responsibility for PFAS contamination that started on, especially airbases, and now contaminating nearby communities, near Dover or F.E. Warren or other airbases in Maryland.

One challenge is, when States are in control of the cleanup under CERCLA, there is no provision in CERCLA that requires DOD and States to enter into cooperative agreements than then force DOD to meet certain deadlines and fulfill their responsibilities. S. 1372, the PFAS Accountability Act, would ensure that in those circumstances, that DOD has to meet a properly promulgated State standard, as long as it meets certain criteria.

So one missing piece in the world of CERCLA is this requirement that DOD or NASA or other federal facilities do have to meet these State standards when States are the lead agency in charge. That does happen under CERCLA.

Senator Van Hollen. I am glad you raised that. In Maryland, for example, under the Maryland Controlled Hazardous Substance Act, Maryland has become the lead agency for CERCLA-designated hazardous waste. So you are saying that the other legislation would be required to make sure that the State of Maryland is not on the hook to pay the bill?

Mr. Faber. If the State, and in the case of Wallops, NASA, were not able to reach a cooperative agreement, then there would be a duty on NASA to alert you, Congress, so that you could get involved and ensure that DOD or NASA or whatever federal agency created the pollution problem was living up to their responsibilities.

Senator Van Hollen. Thank you. I just also, Mr. Chairman, want to associate myself with Senator Markey's comments regarding addressing the occupational hazards to firefighters and others. Thank you. Thank you all.

Senator Barrasso. Thank you, Senator Van Hollen. Before we adjourn, I would like to note that we have received a number of written statements from parties who would be impacted by the legislation before us. These include communities polluted with PFAS substances, as well as airports, rural drinking water providers, paper producers, metal finishers, refineries and others. I ask unanimous consent to enter these written statements into the record.

Without objection, it is done.

[The referenced materials follow:]

Senator Barrasso. Now I would like to thank all of you for being here today. Some members of the committee may have written questions that they will give to you. So the hearing record will remain open for two weeks. But I just want to thank all of you for your time and your testimony and sharing your wisdom with us today.

Thank you. The hearing is adjourned.

[Whereupon, at 10:58 a.m., the hearing was adjourned.]